

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Valentina Concha-Toro	Team: Squad #12	CCRB Case #: 201902171	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 03/05/2019 9:38 AM	Location of Incident: § 87(2)(b)	Precinct: 120	18 Mo. SOL 9/5/2020	EO SOL 4/22/2021	
Date/Time CV Reported Tue, 03/12/2019 11:07 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 03/12/2019 11:07 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. An officer			WARRSEC
2. DT3 Salvator Granata	195	936692	WARRSEC

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Roberto Pagan	1731	946089	WARRSEC
2. DT3 Carl Pattelli	512	944880	WARRSEC
3. DT3 Robert White	5993	942836	WARRSEC

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Salvator Granata	Abuse: On March 5, 2019, Detective Salvator Granata entered § 87(2)(b), in Staten Island.	§ 87(2)(b)
B.DT3 Salvator Granata	Discourtesy: On March 5, 2019, Detective Salvator Granata spoke discourteously to § 87(2)(b)	§ 87(2)(b)
C.DT3 Salvator Granata	Abuse: On March 6, 2019, Detective Salvator Granata entered § 87(2)(b), in Staten Island	§ 87(2)(b)
D. An officer	Discourtesy: On March 6, 2019, an officer spoke discourteously to § 87(2)(b)	§ 87(2)(b)

## Case Summary

On March 12, 2019, § 87(2)(b) submitted this complaint with the CCRB over the telephone.

On March 5, 2019, at approximately 9:38 a.m., § 87(2)(b) who is the building owner and lives on the § 87(2)(b) in Staten Island, was at work in Manhattan. Detective Salvator Granata, who was assigned an I-Card, and his partners Detectives Carl Pattelli, Robert White and Roberto Pagan from Staten Island Warrant Squad, arrived at the address listed for the subject, § 87(2)(b). § 87(2)(b) received a call from Detective Granata. Detective Granata asked § 87(2)(b) questions regarding § 87(2)(b). Detective Granata entered the rear yard of § 87(2)(b) (**Allegation A: Abuse of Authority—Entry**, § 87(2)(g)) and over the telephone said to § 87(2)(b) “We do all kinds of crazy shit” (**Allegation B: Discourtesy—Word**, § 87(2)(g)).

On March 6, 2019, at approximately 7:00 a.m., Detective Granata returned to § 87(2)(b) in Staten Island. Detective Granata opened a window on the § 87(2)(b) apartment and placed his head to his stomach in the apartment (**Allegation C: Abuse of Authority—Entry**, § 87(2)(g)). § 87(2)(b) who was in her apartment on the § 87(2)(b) opened the front door and asked what the detectives were doing. An unidentified detective said, “We can do whatever the fuck we want” (**Allegation D: Discourtesy—Word**, § 87(2)(g)). No summonses were issued, or arrests made as a result of this incident.

Body-worn camera footage was requested and returned with negative results. No video evidence of the incident was obtained by the investigation.

## Findings and Recommendations

### **Allegation (A) Abuse of Authority: On March 5, 2019, Detective Salvator Granata entered § 87(2)(b) in Staten Island.**

It is undisputed that on March 5, 2019, Detective Granata arrived at § 87(2)(b) in Staten Island. § 87(2)(b) is a three floor multi-family building with one apartment on each floor. § 87(2)(b) was not in her apartment on the § 87(2)(b) of the building. Detective Granata had an I-Card for § 87(2)(b) who was the son of the § 87(2)(b) tenant, but no search or arrest warrant. Detective Granata walked between § 87(2)(b) and a neighboring house to the rear yard.

On March 12, 2019, § 87(2)(b) called the CCRB and provided a telephone statement (Board Review 01) § 87(2)(g). On March 19, 2019, § 87(2)(b) provided a verified interview at the CCRB (Board Review 02). § 87(2)(b) provided the investigation with a typed statement that she wrote March 6, 2019 (Board Review 14).

§ 87(2)(b) stated that § 87(2)(b) has a rear yard which is fenced in and separated from all of the neighboring buildings by a fence. The only door from the § 87(2)(b) to access the

rear yard is § 87(2)(b)'s kitchen door. She is the only resident of the building with access to the rear yard, but an individual can access the rear yard from the sidewalk by walking through an alleyway which separates § 87(2)(b) from the adjacent building. There are no gates in the alleyway and there is an opening to the backyard between the fence and § 87(2)(b) without a gate. There is a deck extending from the glass door in the kitchen with five to six steps and a gate. On the kitchen wall opposite to the glass door hangs a sign that reads § 87(2)(b)'s kitchen." On March 5, 2019, § 87(2)(b) had the glass door's curtains open.

Photographs provided to the investigation by § 87(2)(b) (Board Reviews 07 and 08) and from Google Maps (Board Review 09) of § 87(2)(b) corroborated § 87(2)(b)'s account regarding access to § 87(2)(b) as well as her account that the rear yard was fenced in, separating it from the neighboring buildings, and has an additional deck attached to her kitchen door. The deck is the only area of the fenced in rear yard with a gate.

§ 87(2)(b) stated that she was at work in Manhattan when she received a telephone call from Detective Granata. During the telephone conversation between § 87(2)(b) and Detective Granata regarding § 87(2)(b), § 87(2)(b) asked Detective Granata how he obtained her telephone number and name. Detective Granata told § 87(2)(b) that he obtained her telephone number from a database and saw her name § 87(2)(b)'s kitchen." § 87(2)(b) asked Detective Granata if he had walked to the rear yard, opened the gate to her deck and climbed up to see the sign. Detective Granata confirmed this by stating, "We do all kinds of crazy shit."

On April 30, 2019, Detective Granata provided a statement to the CCRB (Board Review 03). On May 4, 2019, both Detective Carl Pattelli and Detective Roberto Pagan provided statements to the CCRB (Board Reviews 04 and 05). On May 21, 2019, Detective Robert White provided a statement to the CCRB (Board Review 06). Detectives Granata, White, Pagan and Pattelli had not been equipped with body-worn cameras at the time of the incident and therefore no body-worn camera video was obtained.

Detective Granata explained that warrant detectives are assigned cases based on a computerized queue. While Detective Granata was the warrant squad detective assigned to the I-Card and apprehension of § 87(2)(b), he was not the detective assigned to the case itself and therefore would not be the detective to process § 87(2)(b)'s arrest. Detective Granata discussed the I-Card with the detective assigned to § 87(2)(b)'s case and determined there was probable cause to arrest. Detective Granata arrived at § 87(2)(b) to apprehend § 87(2)(b). Detective Granata stated that after knocking on the front building door there was an individual on the § 87(2)(b) window who Detective Granata believed to be § 87(2)(b) because he was a young male. The I-Card did not have a photograph of § 87(2)(b). There was no answer at the building door. Initially he stated that he did not recall having gone to the rear yard of the building but later stated he walked through a driveway to the back of the building. Detective Granata saw a sign § 87(2)(b)'s kitchen" on the kitchen wall. Detective Granata was asked if he had opened a gate and responded that he could have opened a gate. Detective Granata walked to the back of the building for safety purposes in case the subject of the search was to walk out the rear of the building.

Detectives Pattelli, Granata, Pagan, and White stated that when at a location, detectives surround the building in the event an individual runs out of the building. Detectives Pattelli and White

stated that only Detective Granata walked to the rear of the building. Detective Pagan stated that one of the detectives on scene, who he believed was Detective White, walked to the rear of the building. Detective Pattelli stated that the rear yard was not visible from the sidewalk.

§ 87(2)(g)

According to People v. Theodore 114 A.D.3d 814 (Board Review 10) a justified entry into the rear yard of a home by an officer requires a warrant or an exigent circumstance, because the rear yard is considered curtilage. The curtilage of a home is defined as the area immediately surrounding and associated with the home or area that is related to the intimate activities of the home, and is determined by four factors: proximity, included within an enclosure surrounding the home, the nature of the uses of the area, and the steps taken by the resident to protect the area from observation by passersby.

According to People v. Avinger 140 A.D.3d 423 (Board Review 11) the entry to a gated, fenced in rear yard by a detective was an entry of curtilage, and unjustified without a warrant or exigent circumstance.

§ 87(2)(g)

§ 87(2)(g)

**Allegation (B) Discourtesy: Detective Salvator Granata spoke discourteously to § 87(2)(b)**

It is undisputed that on March 5, 2019, Detective Granata called § 87(2)(b) and was the only detective who spoke with § 87(2)(b) on the telephone. During the conversation § 87(2)(b) confirmed that she was the property owner and Detective Granata informed § 87(2)(b) that he was at the location for § 87(2)(b).

During § 87(2)(b)'s CCRB statement (Board Review 02) she stated that when she asked Detective Granata if he had entered the backyard he replied, "We do all kinds of crazy shit." During her intake call (Board Review 01) § 87(2)(b) stated Detective Granata said, "[We] do this kind of crazy shit all the time." In § 87(2)(b)'s written statement (Board Review 14) she wrote Detective Granata said, "Yeah, we do all kinds of crazy shit."

During Detective Granata's CCRB testimony (Board Review 03) he stated that he called § 87(2)(b) when he had returned to the front of the building. Detectives Pagan, Detective Pattelli and White, were standing in front of the building. He spoke to § 87(2)(b) regarding § 87(2)(b). Detective Granata denied § 87(2)(b) asked him how he obtained her telephone number or how he obtained her personal information including her name. Detective Granata did not recall he said, "We do all kinds of crazy shit." Detective Granata denied any other officer said this.

During their CCRB testimonies Detectives Pagan, Pattelli and White (Board Reviews 04, 05, and 06) stated that Detective Granata made a telephone call when standing in front of § 87(2)(b). Detective Pagan stated he was approximately 10 feet away from Detective Granata at the time of the call and did not hear the conversation. Detective Pattelli stated that he was standing approximately 20 to 30 feet away from Detective Granata at the time of the call and was unable to hear. Detective White stated that he did not know what the conversation was Detective Granata was having on the phone. Detectives Pagan, Pattelli and White denied they or any other police officer said, "We do all kinds of crazy shit."

§ 87(2)(g)

§ 87(2)(g)

**Allegation (C) Abuse of Authority: Detective Salvator Granata entered § 87(2)(b), in Staten Island.**

It is undisputed that on March 6, 2019, the weather was cold. Detective Granata knew that § 87(2)(b) lived on the § 87(2)(b) apartment at the time he approached the building. Detective Granata was the only detective who approached a § 87(2)(b) window of § 87(2)(b) that faced the sidewalk.

In § 87(2)(b)'s CCRB statement (Board Review 02) she stated that the window of her daughter's then empty bedroom had been closed. § 87(2)(b) was on her way to open the door and heard her § 87(2)(b) son, § 87(2)(b) in her daughter's bedroom speaking to Detective Granata. The window which was previously closed was open, and Detective Granata was inside the room from his head to his stomach through the window.

On April 3, 2019, § 87(2)(b) provided a telephone statement (Board Review 12) but did not provide the CCRB with an in-person statement. § 87(2)(b) stated that he approached his sister's bedroom because he heard shuffling noises. § 87(2)(b) saw Detective Granata open the bedroom window. Detective Granata placed his arm, from his hand to approximately mid-forearm, through

the open window into the bedroom. Detective Granata told § 87(2)(b) to open the front door because it was cold outside.

In Detective Granata's CCRB testimony (Board Review 03) he stated that the I-Card for § 87(2)(b) noted his address as § 87(2)(b) and during his telephone conversation on March 5, 2019, § 87(2)(b) had confirmed that § 87(2)(b) lived on the § 87(2)(b). On March 6, 2019, the weather was approximately 25 degrees Fahrenheit. Detective Granata knocked on the front building door and an unidentified voice from the other side said they would open the door shortly. Approximately 15 minutes later, the front door had not been opened and Detective Granata thought it rude, due to the cold, that no one opened the front door as they said they would. Detective Granata saw one of the § 87(2)(b) windows open approximately three inches. Detective Granata approached the open window and opened it approximately six inches, placed his face a few inches away and yelled into the room if someone was going to open the door. An individual who the investigation determined was § 87(2)(b) walked into the room and stood at the rear of the room. § 87(2)(b) walked out of the room and Detective Granata heard § 87(2)(b) yelling. Detective Granata closed the window and left. Detective Granata denied he placed his head to his stomach through the open window and said he would not do that because it was dangerous. Detective Granata denied he or any other officer passed any part of their bodies through the open window.

In their CCRB testimonies, Detectives Pattelli, White, and Pagan (Board Review 04, 05, and 06) stated that the window Detective Granata approached was open approximately one to three inches and Detective Granata opened it approximately a few more inches. Detective Granata placed his face a few inches from the window and asked if anyone was going to open the front door, but did not place any part of his body through the open window.

§ 87(2)(g)

According to People v. Loucks, 125 A.D.3d 887 (Board Review 13) an officer was justified in his entry into a residence when opening a window and placing their head inside without a warrant because of exigent circumstances.

According to People v. Febus, 157 A.D.2d 380 (Board Review 15) it was established that the act of an officer pushing open a slightly ajar apartment door constitutes an entry and if there was no warrant, it would not be permissible without a condition which satisfies the exception to the search warrant requirement.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation (D) Discourtesy: On March 6, 2019, an officer spoke discourteously to § 87(2)(b)**

In § 87(2)(b)'s CCRB statement (Board Review 02) she stated that she exited her apartment door and opened the building door. Detectives Granata, Pagan, Pattelli and White were standing at as a group at the door. Detective Pagan was standing in the middle of the group. § 87(2)(b) asked Detectives Granata, Pagan, Pattelli and White what they were doing and why they had opened her window. One of the detectives who was standing at the back of the group told § 87(2)(b) "We can do whatever the fuck we want." § 87(2)(b) did not know which detective was standing at the back of the group and was unable to provide any further identifying details regarding the subject of the discourteous statement.

On May 20, 2019, a telephone statement was obtained from § 87(2)(b) (Board Review 16). § 87(2)(b) did not provide the CCRB with an in-person statement. § 87(2)(b) stated that she was on her way down the stairs to the front door and saw § 87(2)(b) wearing a bathrobe at the front door. § 87(2)(b) initially stated that only when knocking on the door prior to § 87(2)(b) opening the door, an unknown detective used the word "fuck." Later, when asked specifically if she heard any of the detectives say, "We can do whatever the fuck we want," § 87(2)(b) confirmed that she heard the statement but did not know which of the detectives said this.

§ 87(2)(b) during his telephone statement (Board Review 12) stated that when § 87(2)(b) walked out of the apartment and to the building's front door to speak with officers, § 87(2)(b) stayed inside of the apartment and did not go to the hallway with § 87(2)(b). It was not determined whether the front door was open or closed.

In their CCRB testimonies, Detectives Granata, Pagan and White (Board Reviews 03, 05 and 06) stated that the individual who opened the door was § 87(2)(b) mother, § 87(2)(b). She identified herself as § 87(2)(b) mother and invited them up to her apartment on the § 87(2)(b). Detectives Granata, Pagan, and White were presented with a photograph of § 87(2)(b) and they all denied § 87(2)(b) was the individual who opened the door. Detectives Granata, Pagan and White stated that § 87(2)(b) was not in the vicinity of the door when § 87(2)(b) opened the door. Detectives Granata, Pagan and White denied they or another detective said, “We can do whatever the fuck we want.”

In Detective Pattelli’s CCRB testimony (Board Review 04), he stated that he did not approach the door with Detectives Granata, Pagan and White. Detective Pattelli was standing on the street observing the windows at the time of the alleged discourtesy. Detective Pattelli was shown a photograph of § 87(2)(b) and initially stated he recognized § 87(2)(b) from the door area but he was focused on the windows and did not take a good look at the individual at the door. When asked later if he recognized § 87(2)(b) from her photograph as the individual at the door, Detective Pattelli stated he did not recognize § 87(2)(b) as the individual at the door.

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### **Civilian and Officer CCRB Histories**

- This complaint is § 87(2)(b)’s first CCRB complaint (Board Review 17)
- Detective Granata has been a member-of-service for 14 years and has nine prior CCRB allegations in eight cases with one substantiated allegation. § 87(2)(g)  
§ 87(2)(g)
  - In CCRB Case #201800734 one allegation of discourtesy was substantiated by the CCRB. The Board recommended charges. The NYPD disposition is not available.

### **Mediation, Civil and Criminal Histories**

- § 87(2)(b) refused to mediate this complaint.

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